



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 6467-99
4 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged.

2. The Board, consisting of Mr. Pfeiffer, Mr. Dunn and Ms. McCormick, reviewed Petitioner's allegations of error and injustice on 2 May 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Naval Reserve on 25 January 1986 for six years. On 16 January 1987 he was advanced to HM1 (E-6). A statement of service submitted by Petitioner shows that on 30 January 1990 at the end of the anniversary year he was credited with 20 years, 1 month and 2 days of qualifying service for reserve retirement.

d. Sometime in the next anniversary year, Petitioner was found not physically qualified and was transferred to a "records review" status. On 25 April 1991 he was informed that the Bureau of Medicine and Surgery had found him not physically qualified

for duty. He was given the option of being discharged or requesting transfer to the Retired Reserve. Petitioner has submitted a copy of a letter, dated 3 May 1991, in which he requested transfer to the Retired Reserve. For some reason, no action was taken on this request. There are no extensions of enlistment or discharge entries in the record. However, the statement of service ends on 20 November 1993. This date is almost two years after the expiration of his six year reenlistment of 25 January 1986. Petitioner became 60 years old on 1 June 1999.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that the Navy Personnel Command has routinely recommended corrective action in similar cases when an individual is eligible for reserve retirement and errors occurred which prevented retirement.

f. The Board is also aware that the Uniform Retirement Date Act, 5 U.S.C. 8301, requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was eligible for reserve retirement and would have been retired if his request had been properly processed. Therefore, the Board concludes that the record should be corrected to show that he transferred to the Retired Reserve in the rate of HM1.

In order to align the record with the 20 November 1993 ending date on the statement of service, the Board further concludes that Petitioner's six year enlistment of 25 January 1986 should be extended for a period of 22 months. Given the requirements of the Uniform Retirement Date Act, the record should show that he transferred to the Retired Reserve effective 1 November 1993. Since Petitioner is now 60 years old, the record should also be corrected to show that he transferred to the Retired List on 1 June 1999, his 60th birthday.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that his six year enlistment of 25 January 1986 was extended for a period of 22 months.

b. That Petitioner naval record be further corrected to show that he transferred to the Retired Reserve on 1 November 1993 in the rate of HM1 vice being discharged on 20 or 25 November 1993 or any other date. In addition Petitioner should be transferred to the Retired List on 1 June 1999 his 60th birthday.

c. That this Report of Proceedings be filed in Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



For W. DEAN PFEIFFER
Executive Director



| Date | Type Action | Description/charges | Comments/Sentence |
|---------|----------------|--|-------------------|
| 30Sep69 | | Honorable Discharge Completed 9 years, 1 month And 2 days of active service ----- ----- | |
| 29Nov78 | | Enlisted in a reserve component 5 consecutive qualifying years | |
| 28Nov83 | | Discharged ----- ----- | |
| 31Jan84 | | Enlisted USNR for 2 years | |
| 25Jan86 | | Reenlisted USNR for 6 years | |
| 16Jan87 | | Advanced to HM1 | |
| 30Jan90 | | Completed 6 consecutive qualifying years in the Naval Reserve Statement of service shows that He has 20 years, 1 month and 2 Days of qualifying service and he Is eligible for reserve retirement Sometime in the next anniversary Years he was found not to be Physically qualified and transferred To records review pending a decision On his physical status | |
| 25Apr91 | | Command informed him that BUMED had found him not physically qualified and gave him the option of being discharged or requesting transfer to the Retired Reserve | |
| 3May91 | | Petitioner requested transfer to the Retired Reserve <i>Apparently no further action was Taken - the statement of service shows That he was discharged on 20 Nov 93</i> ----- | |
| 1Jun99 | | Age 60 | |